

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7647
WWW.SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
TEL. (212) 973-0111
FAX (212) 891-9598

March 15, 2002

VIA ELECTRONIC MAIL & US MAIL

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Network Plus, Inc. Investigation, D.T.E. 02-15

Dear Secretary Cottrell:

Network Plus, Inc. ("Network Plus") submits this letter as its Reply Brief in the above-referenced proceeding. Network Plus respectfully requests that the Department address the application of its new sixty (60) days notice requirement. Specifically, the Department should clarify that the 60 days notice requirement applies when carriers disconnect other carriers ("carrier-to-carrier disconnection").¹ Network Plus would willingly provide 60 days notice to its customers; however, if underlying service providers, such as Verizon, are not required to provide the same or additional notice, it would be impossible for Network Plus to comply with the 60 days notice requirement. Therefore, Network Plus believes that the carrier-to-carrier disconnection issue is of significant importance to the Department and its consideration of the matters in the above-referenced proceeding.

In its order establishing the 60 days notice requirement, the Department stated "effective immediately, carriers are required to provide the *Department and customers* with 60 days advance written notice of discontinuation of service or network shutdown."² The requirement, as written, is vague as to whether "customer" would include other carriers or only end user customer. If the term "customer" only includes end user customers, then it is likely, for reasons discussed below, that Network Plus would not be able to comply with the 60 days notice requirement. In sum, failure to impose the

¹ The requirement to provide 60 days advance notice of disconnection to customers was recently established by the Department in D.T.E. 02-14. *Broadview Investigation*, D.T.E. 02-14, Order, pp. 10-11 (February 20, 2002).

² *Id.* (emphasis added).

requirement on carrier-to-carrier disconnection renders the 60 days notice requirement virtually impossible to comply with for many carriers in financial distress.

Verizon Massachusetts (“Verizon”) provides significant network services that support Network Plus’ service to its end users. Verizon has established a thirty (30) days disconnection notice period for disconnection of carriers failing to pay for resold and/or facilities based services. Verizon’s Massachusetts D.T.E. Tariff No. 14, Section 3.2.1(B) provides, in relevant part, that “[i]f the reseller fails to comply with the rules and regulations of this tariff, including any payments to be made by it on the dates and times herein specified, [Verizon] may, *on 30 days written notice* . . . discontinue the provision of the services involved at any time thereafter.”³ Verizon’s Massachusetts D.T.E. Tariff No. 17, applicable to competitive local exchange carriers, provides, in relevant part, “[i]f the CLEC fails to comply with the rules and regulations of this tariff, including any payments to be made by it on the dates and times herein specified, [Verizon] may, *on 30 days written notice* . . . discontinue the provision of the services involved at any time thereafter.”⁴ Thus, resellers and competitive local exchange carriers will be unable to comply with the Department’s 60 days customer notice requirement if Verizon is allowed to disconnect carriers on 30 days notice.

Network Plus urges the Department to clarify its rule and order Verizon to provide at a minimum 60 days notice for carrier-to-carrier disconnection and to revise its Massachusetts tariffs 14 and 17 and any other relevant tariff provisions accordingly. The Department may want to consider mandating that Verizon provide carriers with more than sixty days notice to allow for situations where carriers do not anticipate receiving such notice and are unable to notify their customers in accordance with the Department’s rules.

Respectfully submitted,

/s/
Kathleen L. Greenan

Attorney for Network Plus, Inc.

³ See D.T.E. MA Tariff No. 14, Section 3.2.1(B) (emphasis added).

⁴ See D.T.E. MA Tariff No. 17, Part A, Section 1.9.2 (B) (emphasis added).